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EXAMINER

ART UNIT PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

10/029,483

Applicant(s)

BERIKER, JAMES

Examiner

Andrew Caldwell

Art Unit

2142

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 16 January 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.



**ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER**

Continuation of 10. Other (including any explanation in support of the above items): The summary of the claimed subject matter is defective because it does not clearly identify the structure that corresponds to the means for establishing an account. In the summary, the applicants point, among other places, to Figure 2 as support for this limitation. Figure 2 describes various structures as performing the function of establishing an account. For example, the structure could be some combination of the software elements running on the referral provider computer that presents the user interface that allows the user to set up an account. Alternatively, the structure could be software running on the traffic management system that validates the submitted information and stores the information in the account storage database. Any of the structures could perform the general function of the means plus function limitation. Accordingly, it is unclear based on the reference to Figure 2, what structure corresponds to the means for establishing an account. The summary of the claimed subject matter also refers to page 6 line 23 to page 7 line 6 of the specification as setting forth the structure that corresponds to means for establishing an account. The citation of this section merely adds additional alternatives to the possible structures that perform the function and provides no additional clarity. For example, the cited section of the specification describes a set up page on which a user enters account information the summary in the appeal brief points to a "set up account" button, which appears on a web page transmitted by the traffic management system to the referral provider system. The "set up account" button allows the user to request a web page that will allow the user to enter identifying information. This web page includes a submit button that the user presses in order to submit information to the traffic management system. It is possible that the means for establishing could be one of, or some combination of: (1) the page including the "set up account" button, (2) merely just the "set up account" button, (3) the set up page including the submit button, or (4) merely just the submit button. Again, the summary of the claimed subject matter is unclear. The applicants need to clearly identify the structure that performs the function in their response to this letter.

The summary of the claimed subject matter is also defective with respect to the applicants' explanation with respect to the search referral module of claim 1. The summary points to the keyterm search analyzer (Fig. 2 elem. 50) and the search referral module (Fig. 2 elem. 52) as support for the claimed search referral module. The summary also points to page 9 line 10 to page 10 line 4 of the specification. This section of the specification describes the various functions performed by the keyterm search analyzer and the search referral module. It is not evident from the specification, in either the cited or uncited portions, that the search referral module ever analyzes the user computer's search request. Although the keyterm search analyzer may analyze the search request, the specification itself does not describe a search referral module that does anything other than process the output of the keyterm search analyzer. As to the argument that the search referral module of the claim somehow encompasses both the keyterm search analyzer and the search referral module of the specification, the Examiner fails to see how this interpretation is supported. Although Figure 2 may show element 46 as encompassing both elements 48 and 50, the applicant seems to have intentionally excluded element 52 as being shown as part of 46.

The evidence appendix is defective because it includes information that is not the sort of evidence to be included in an evidence appendix. An evidence appendix is to include evidence submitted under 37 CFR 1.130, 1.131, and 1.132. See MPEP 1205.02(ix). The evidence appendix may also include evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal (i.e., copies of the references used in any rejections). See MPEP 1205.02(ix). Copies of various Office actions and replies by the applicant are already part of the official record. They are not the sort of evidence to be included in an evidence appendix.